

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BLACKIE FLORINCEO ALVAREZ Sr.,

Plaintiff,

v.

GRAY REDMAN, *et al.*,

Defendants.

Case No. 2:21-cv-01932-JDP (PC)

ORDER DIRECTING THE CLERK OF COURT TO ASSIGN A DISTRICT COURT JUDGE

FINDINGS AND RECOMMENDATIONS THAT THIS ACTION BE DISMISSED FOR FAILURE TO PROSECUTE, FAILURE TO COMPLY WITH COURT ORDERS, AND FAILURE TO STATE A CLAIM AND THAT PLAINTIFF'S PENDING MOTION BE DENIED AS MOOT

ECF No. 17

OBJECTIONS DUE WITHIN FOURTEEN DAYS

On May 10, 2022, I screened plaintiff's complaint, notified him that it failed to state a claim, and gave him thirty days to file an amended complaint. ECF No. 4. On June 15, 2022, I granted plaintiff an additional thirty days to file an amended complaint. ECF No. 10. Plaintiff did not file an amended complaint by the deadline, and accordingly, on August 22, 2022, I ordered him to show cause why this case should not be dismissed for failure to prosecute and failure to state a claim. ECF No. 13. In response, plaintiff filed another motion for an extension of time to file an amended complaint. ECF No. 14. I granted plaintiff additional time to file an amended complaint and to respond to the August 22 order to show cause. ECF No. 15. Plaintiff

1 responded to the August 22 order to show cause, but neither filed an amended complaint nor  
2 indicated with sufficient clarity that he wished to stand by his current complaint. ECF No. 16.  
3 On December 5, 2022, I granted him another opportunity to file either an amended complaint or a  
4 notice with the court indicating that he wished to stand by his current complaint, subject to  
5 dismissal. ECF No. 19. Plaintiff failed to respond to the December 5 order, and on January 31,  
6 2023, I ordered him to show cause why this case should not be dismissed for failure to prosecute  
7 and failure to state a claim. ECF No. 21.

8 The deadline has passed, and plaintiff has not filed an amended complaint or otherwise  
9 responded to the January 31, 2023 order.

10 Accordingly, it is hereby ORDERED that the Clerk of Court randomly assign a district  
11 judge to this action.

12 Furthermore, it is hereby RECOMMENDED that:

13 1. This action be dismissed for failure to prosecute, failure to comply with court orders,  
14 and failure to state a claim, for the reasons set forth in the May 10, 2022 and January 31, 2023  
15 orders.

16 2. Plaintiff's motion for court order, ECF No. 17, be denied as moot.

17 3. The Clerk of Court be directed to close the case.

18 These findings and recommendations are submitted to the United States District Judge  
19 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
20 after being served with these findings and recommendations, any party may file written  
21 objections with the court and serve a copy on all parties. Such a document should be captioned  
22 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the  
23 objections shall be served and filed within fourteen days after service of the objections. The  
24 parties are advised that failure to file objections within the specified time may waive the right to  
25 appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*  
26 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

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2 IT IS SO ORDERED.  
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4 Dated: April 4, 2023  
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4 JEREMY D. PETERSON  
5 UNITED STATES MAGISTRATE JUDGE